

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Cliff Davidson on December 21, 2009.

2. The application has been amended as follows:
- a. In claim 66, replace the # "65" with the # "60".
 - b. In claim 144, replace the phrase "The process" with the phrase "The multi-compartment capsule".

Reasons for Allowance

3. The following is an examiner's statement of reasons for allowance: Applicant amended the claims to require an oil ingredient in the first receiving chamber and only solid ingredients in the second receiving chamber. The closest prior art, Bakhshae et al. (WO 02/07710 A2), teaches the same active principle in the inner and outer capsules for delivery to more than one site in the GI tract. Bakhshae does not teach oil in the first receiving chamber and only solids in the second receiving chamber. A further prior art search did not disclose a reference that teaches oil in the first receiving chamber and only solids in the second receiving chamber. Therefore, the claimed invention is novel and patentably distinct over the prior art of record.

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4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Rejoinder

5. Claim(s) 4, 6, 9, 36-44, 46, 49-53, 60, 106-117, 121, 127-128, 135, 137-156, 158, 160-168 are allowable. Claim(s) 34-35, 54-56, 61-64, 66, 69-85, 87, 90, 92, 95-105, 130-131, 133-134, and 136 previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), the restriction requirement between inventions the groups of the invention(s), as set forth in the Office action mailed on 01/30/07, is hereby withdrawn and claim(s) 34-35, 54-56, 61-64, 66, 69-85, 87, 90, 92, 95-105, 130-131, 133-134, and 136 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Conclusion

6. Claims 4, 6, 9, 34-44, 46, 49-56, 60-64, 66, 69-85, 87, 90, 92, 95-117, 121, 127-128, 130-131, 133-156, 158, and 160-168 are allowed.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aradhana Sasan whose telephone number is (571) 272-9022. The examiner can normally be reached Monday to Thursday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Wax, can be reached at 571-272-0623. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Aradhana Sasan/
Examiner, Art Unit 1615

/Robert A. Wax/
Supervisory Patent Examiner, Art Unit 1615